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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

GERALD B. LAWSON,

Defendant and Appellant.

D043936

(Super. Ct. No. SCS170229)

APPEAL from a judgment of the Superior Court of San Diego County, Jeffrey F. Fraser, Judge. Affirmed in part and reversed in part.

Gerald B. Lawson entered a negotiated guilty plea to two counts of assault with a firearm (Pen. Code, § 245, subd. (a)(2)), and admitted personally using a firearm in both (Pen. Code, § 12022.5, subd. (a)(1)). The court sentenced him to prison for a stipulated 10 years: the four-year upper term on one count of assault with a firearm enhanced by the four-year middle term for personally using a firearm, with consecutive terms of one year for the second conviction of assault with a firearm (one-third the middle term) and

one year for personal firearm use (one-third the lower term). The court awarded one day of credit for time served. Lawson contends the trial court erred in denying credit for the time he was in custody on a probation revocation in an unrelated case.

### FACTS

On January 12, 2000, the court placed Lawson on three years' probation for making a fraudulent statement in a workers' compensation claim. (Ins. Code, § 1871.4, subd. (a)(1).) The court revoked probation on August 8, after Lawson was arrested on the current assault with a firearm charges. The court sentenced Lawson to prison in the workers' compensation case for the three-year middle term, stating, "Based on the evidence presented in case CD 170229, the court finds the defendant in violation of probation for failure to remain law abiding."

### DISCUSSION

When a defendant is on probation, and probation is revoked solely because the defendant is arrested on a new charge, the defendant is entitled to credit on the new case for time in custody for the failure to obey all laws probation violation. (*People v. Williams* (1992) 10 Cal.App.4th 827, 829-835; see also *In re Joiner* (1989) 48 Cal.3d 487, 489.) The People concede that the trial court erred in refusing to grant Lawson credit for the time he was in custody for violating probation in superior court case number SCD146013.

## DISPOSITION

The convictions and sentence are affirmed but for the award of credit for time served. The award of one-day credit for time served is reversed and the matter is remanded for recompilation of presentence custody credits.

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HALLER, J.

WE CONCUR:

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HUFFMAN, Acting P. J.

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McINTYRE, J.